



Department of Planning, Building and Code Enforcement
200 East Santa Clara Street
San José, California 95113-1905

GENERAL PLAN AMENDMENT STAFF REPORT FALL 2005 HEARING

Hearing Date Agenda Number:
P.C. Nov. 09, 2005 Item: 7.a.

File Number:
GP05-04-03

Council District and SNI Area:
4

Major Thoroughfares Map Number:
51

Assessor's Parcel Number(s):
244-23-067

Project Manager: Meera Nagaraj

PROJECT DESCRIPTION:

General Plan amendment request to change the Land Use/Transportation Diagram from Heavy Industrial to Heavy Industrial with Mixed Industrial Overlay on a 2.66 gross-acre site.

LOCATION: East of Oakland Road, approximately 700 feet south of
Calle Artis (2080 and 2090 Oakland Road)

ACREAGE: 2.66 Acres

APPLICANT/OWNER:

Bible Way Christian Center/ Cilker Revokable Trust

GENERAL PLAN LAND USE / TRANSPORTATION DIAGRAM DESIGNATION:

Existing Designation: Heavy Industrial

Proposed Designation: Heavy Industrial with Mixed Industrial Overlay

ZONING DISTRICT(S):

Existing Designation: HI - Heavy Industrial

Proposed Designation: Not applicable

SURROUNDING LAND USE AND GENERAL PLAN DESIGNATION(S):

North: Industrial uses– Heavy Industrial

South: Industrial uses– Heavy Industrial

East: Industrial uses – Heavy Industrial

West: Industrial use– Industrial Park with Mixed Industrial Overlay

ENVIRONMENTAL REVIEW STATUS:

Mitigated Negative Declaration circulated on October 21, 2005.

PLANNING STAFF RECOMMENDATION:

No change to the existing Heavy Industrial designation

Approved by:

Date:

PLANNING COMMISSION RECOMMENDATION:

CITY COUNCIL ACTION:

CITY DEPARTMENT AND PUBLIC AGENCY COMMENTS RECEIVED:

- Department of Public Works: The Transportation and Development Services Division (DPW) has stated that the project is subject to In-Lieu Under-grounding and Reimbursement Fees. Also per the Assessor's map, a pipeline currently goes through the property. (See attached memo.)
- Department of Transportation: The proposed land use change is exempt from a computer model (TRANPLAN) traffic impact analysis. (See attached memo.)
- Environmental Services Department: No comments.
- Police Department: The parking lot will need to be sufficiently illuminated during the hours of darkness. Each exit door should have its own light source mounted above the door on the exterior wall. (See attached memo.)
- San José Fire Department: The Fire Department has stated their review is limited to verifying compliance of the project to Article 9, Appendix III-A, and Appendix III-B of the 2001 California Fire Code with City of San Jose Amendments (SJFC). Compliance with all other applicable fire and building codes and standards relating to fire and panic safety shall be verified by the Fire Department during the Building Permit process. The drawing provided did not include information necessary for their review. Site flow requirement may be as high as 4,500 GPM. The Hazmat Section of the Fire Department will comment on the environmental review when submitted to Mike Murtiff. (See attached e-mail memo.)
- Santa Clara Valley Water District: The District has stated that it has no objections to the proposal. District records show one well on the site. The well should be properly maintained or destroyed in accordance with the District's Standard. For other comments see attached memo. The site is located within Zone D, an area of undetermined but possible, flood hazards.

GENERAL CORRESPONDENCE:

Staff has received comments through written correspondence regarding this project. See enclosed letter from Andre R. Walewski, Senior Vice President, Colliers International, San Jose; dated November 2, 2005.)

RECOMMENDATION

Planning staff recommends No Change to the General Plan Land Use/Transportation Diagram designation of Heavy Industrial on the subject site. The following points summarize staff's concern:

The proposed Mixed Industrial Overlay (MIO) is incompatible with the existing industrial uses in the vicinity of the subject site. Allowing the MIO and its specific non-industrial uses on the site would discourage the retention and expansion of existing surrounding industrial uses within close proximity of the subject site resulting in a potential loss of employment -- more than 300 jobs from one of the adjacent businesses, reduced revenue to the City, reduced property values, and an increase in vacancy rates. The proposed MIO could also induce further conversion of industrial lands to non-industrial uses in the vicinity, continuing the loss of heavy industrial land that would have long-term impacts on the City's economy.

Apart from the economic loss to the City and loss of limited Heavy Industrial land resources, occupants of future non-industrial uses on the site could be subjected to nuisances from the existing surrounding industrial uses, including exposure to hazardous materials, as well as noise, dust, and odors from the numerous uses in the area. In addition, the proposed General Plan amendment could result in future limitations being imposed on the industrial uses in the immediate vicinity of subject site, thereby potentially compromising the future viability of surrounding businesses.

Staff recognizes that this site is located in the North San Jose 5 Subarea, a portion of the larger North San Jose industrial area. The City's *Framework, as a Guideline, for Evaluating Proposed Conversions of Employment Lands to Other Uses* (Framework) states that conversions in this subarea should only be considered in areas that are already in transition and that can be integrated into the neighborhood. Properties on the opposite side of Oakland Road have been approved for residential development. However, the uses on the easterly side of Oakland Road are consistently industrial and are not in any form of transition. Therefore the proposed General Plan amendment does not satisfy the Framework requirement.

PROJECT DESCRIPTION

This is a privately initiated General Plan amendment to change the *San Jose 2020 General Plan* Land Use/Transportation Diagram designation from Heavy Industrial to Heavy Industrial with Mixed Industrial Overlay on an approximately 2.66-acre site at 2080 and 2090 Oakland Road. The applicant, Bible Way Christian Center, presently leases the site for office uses and has indicated intent to purchase the property for future religious assembly use.

In conjunction with the Heavy Industrial land use designation, the addition of the Mixed Industrial Overlay allows a broader range of uses such as a mixture of primarily industrial with compatible commercial or public/quasi-public uses, or the site may be developed entirely with industrial uses in accordance with the base designation of Heavy Industrial. Examples of non-industrial uses include, but are not limited to, primary or secondary schools, hotels and motels, night clubs, churches, free standing day care centers, big box retailers, large gymnasiums, sports or arts instruction facilities, and hospitals.

BACKGROUND

Site and Surrounding Uses

The subject site is located on the east side of Oakland Road approximately 700 feet south of Calle Artis west of the Southern Pacific Transportation Company railway easement and Santa Fe Pacific Pipeline easement. The west side of the subject site fronts on Oakland Road, which provides vehicular access to much of the larger industrial area in northeast San José. It is designated as a Major Arterial Street in the General Plan, a 115 to 130 feet right-of-way, and is defined as a facility designed mainly for the movement of through traffic. The existing roadway varies from two to four lanes between Hedding Street to the south and Montague Expressway to the north. A City Capital Improvement Project is in progress to complete widening of Oakland Road to four lanes. The Santa Fe Pacific Pipeline, an oil transmission line, runs across the site in the east-west direction at the center of the site under the existing industrial building, and then runs along the east side of the site towards the north.

The site has an existing land use designation of Heavy Industrial. The Heavy Industrial designation is intended for industrial uses with nuisance or hazardous characteristics which for reasons of health and safety, environmental effects, or public welfare are best segregated from other uses. Traditional industrial activities such as heavy and light manufacturing and warehousing are encouraged under this designation.

The General Plan land use designations of the surrounding properties are as follows: Heavy Industrial to the north, Heavy Industrial to the south, Industrial Park with Mixed Industrial Overlay

across Oakland Road to the west, Heavy Industrial to the east across the Southern Pacific Transportation Company railway easement and Santa Fe Pacific Pipeline easement.

Buildings with industrial uses exist to the north and south of the site, and also across the railway line on the east and across Oakland Road on the west. The buildings immediately to the north and south of the subject site are occupied by a sheet metal engineering and fabrication company. The building to the south at 2070 Oakland Road is linked to the far south side of the existing building on the subject site (2080 Oakland Road) with a common loading dock area. The industrial site across Oakland Road is currently used by a wood pallet manufacturing and storage business (*Sal's Pallet*), a portion of which is leased for use as outdoor vehicle storage. A trucking company is located to the east side of the site across the railway adjacent to the rear side of the subject building. To the far south of the site are a number of parcels, which are occupied by heavy industrial uses requiring a significant amount of outdoor storage and activity. These uses include a wood milling and molding supply business, a tree pruning business, and further south a rock supply business and an auto salvage yard.

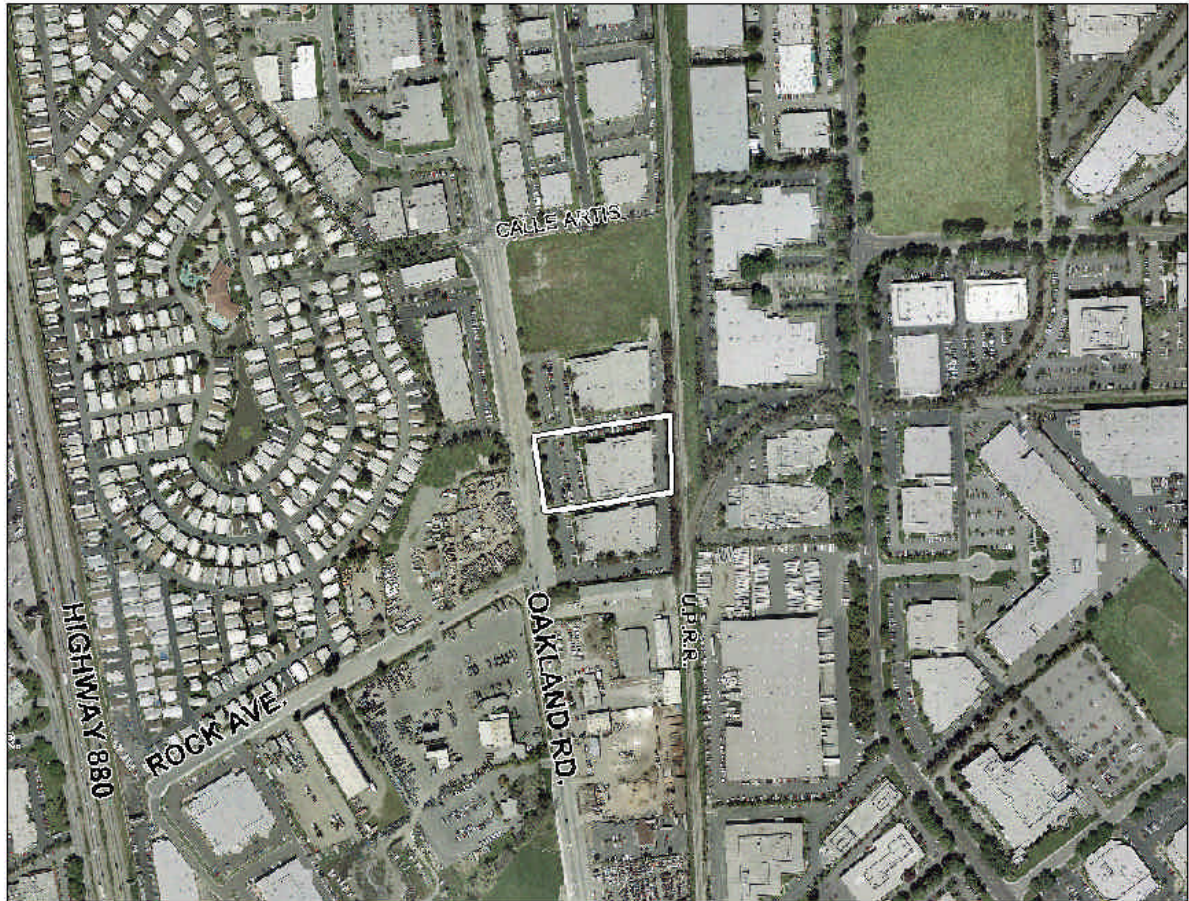
Existing Development

In 1984, a Site Development Permit (File No. H98-195) was approved to allow research and manufacturing buildings with a total area of 185,000 square feet on two parcels of approximately 13 acres, of which the subject site is a part. Subsequently, the subject parcel was created as a part of a four-parcel subdivision of the two larger parcels. The existing 37,000 square-foot building has two portions, each with its own address (2080 and 2090 Oakland Road). The applicant states that the building has been vacant for the past 18 months. From staff observation, the building appears to be partially vacant at this time. The portion of the building at 2080 Oakland Road was occupied by the US Post Office until three years ago and since then has been used for indoor storage for a Food Bank. The portion of the building at 2090 Oakland Road was previously used for sheet metal training. The existing sheet metal business occupying the buildings on both sides of the subject site, Mass Precision Sheet Metal, currently operates three shifts, a 24-hour 7 days a week operation and is planning to expand its weekend crew in the near future.

There is no development permit application on the proposed project on file at this time. Nevertheless, the applicant has stated on the application and also during the community meeting that the existing 37,000-square foot industrial building will be used for church, school, and other related uses.

Pending and Approved General Plan Amendments in the Surrounding Area

Two pending General Plan amendment requests are currently under staff review: File No. GP05-04-07 on a 2.7-acre site at 2135 Oakland Road across the street on the west side of Oakland Road to change the Industrial Park land use designation with Mixed Industrial Overlay to Medium High Density Residential (12-25 DU/AC) and File No. GP05-04-06 on a 3.9-acre site at 1040 Rock Avenue on the south side of Rock Avenue approximately 800 feet westerly of Oakland Road to change the Industrial Park land use designation to Medium Density Residential (8-16 DU/AC). The Industrial site to the west of Oakland Road across the street from the subject parcel that houses the pallet storage company was the subject of a General Plan amendment, File No. GP05-04-01 approved on October 18, 2005 that changed the Industrial Park designation to Medium High Density Residential (12-25 DU/AC) on 4.7 acres.



Aerial Exhibit of the Subject
Site and Vicinity



2090 Oakland Road, Part of the
proposed site; Front View



2080 Oakland Road, Part of the
proposed site; Front View



Common dock area at the far side of the subject building, connecting the adjacent industrial building; Front view.



An industrial site looking West on Oakland Road.

Industrial Conversion Framework

The City's *Framework, as a Guideline, for Evaluating Proposed Conversions of Employment Lands to Other Uses (Framework)*, was adopted by the Council in April 2004 for the purpose of evaluating proposed conversions of employment lands to other uses. The subject site is a part of the North San Jose 5 Subarea, a portion of the larger North San Jose industrial area. The *Framework* states that conversions in this subarea should only be considered in areas that are already in transition and can be integrated into the neighborhood/area framework. As stated previously, the larger surrounding area on the easterly side of Oakland Road is consistently industrial and is not in any form of transition.

The recent Status Report on the City's Industrial Lands (also to be reviewed by the Planning Commission on November 9) shows that a total of approximately 607 acres have been converted to non-industrial uses since adoption of the *Framework*. The report states that, of the approximately 11,000 acres of planned industrial land within the Urban Service Area, there are 1,400 acres of Heavy Industrial and 1,100 acres of Light Industrial remaining. The report further states that, given the limited inventory of industrial lands, San Jose needs to protect its diverse employment land base to provide for the expansion and recruitment of companies of all sizes and industries, thereby supporting employers to provide future jobs for all income levels.



Hiring Sign at
2110 Oakland Road.

ANALYSIS

The key issues in analyzing the proposed General Plan amendment are: 1) consistency with the *San José 2020 General Plan* Major Strategies, goals, and policies; and 2) consistency with *Framework* criteria.

Consistency with the *San José 2020 General Plan* Major Strategies, Goals, and Policies

The conversion of industrial land in this location would not be consistent with several General Plan Economic development goals and policies.

Economic Development Major Strategy

The Economic Development Major Strategy is designed to maximize the economic potential of the City's land resources while providing employment opportunities for San José's residents. The Strategy calls for identifying opportunities for expanding the community's economic base, promoting a balance between "driving" industries and the service/supplier firms that support them, and actively marketing San José as a location for a wide range of businesses. The proposed General Plan amendment is inconsistent with the General Plan's Economic Development Major Strategy because it would result in a potential loss of jobs and economic development opportunities for the new and emerging industrial businesses. In particular, the addition of the Mixed Industrial Overlay designation to facilitate the conversion of the existing buildings to religious assembly use could impact the future retention of the existing adjacent sheet metal business, whose owners have indicated they will not renew their lease when it terminates in 18 months if the church use is approved, resulting in the relocation of the business with 300+ employees and the creation of additional vacant buildings (see attached message from Andre Walewski, representative of the owners of the adjacent buildings).

General Plan Goals and Policies

The Economic Development goals and policies encourage the development of industrial land to provide sufficient opportunities for job growth and for expansion of the City's industrial tax base. The proposed addition of the Mixed Industrial Overlay and the resulting non-industrial uses do not enhance the City's employment land resources. Instead they further reduce the limited heavy industrial land resources and discourage existing and new industries from locating in the Heavy Industrial areas surrounding the subject site due to potential liability issues of locating next to non-industrial uses, especially the assembly use that would likely include sensitive receptors such as children and the elderly.

Businesses that use hazardous materials are required by statute (Health and Safety Code) to create and maintain a Response Management Plan as well as a Risk Management and Prevention Program that must take into account proximity to schools, day care facilities and hospitals, among other sensitive uses. Permits to maintain hazardous materials at the site of the business are issued depending on proximity or distance from such sensitive receptors, and often require greater safety measures, including distance from schools and day care. Additionally, if any business releases hazardous materials into the air, a permit for the release will not be issued if the business is within 1,000 ft. of a sensitive receptor. Because industrially planned and zoned areas of the city are the primary location for businesses that use hazardous materials, the introduction of non-industrial

uses may further degrade the viability of the existing industrial area. The proposed amendment is inconsistent with the City's Economic Development goals and policies.

If the proposed General Plan amendment is approved, any new use allowed by the Mixed Industrial Overlay designation will be subject to subsequent development applications and environmental review. At such time, a detailed review will be conducted of the relationship between the proposed new use and the hazardous material use at the surrounding industrial facilities.

Economic Development Policy No. 1 seeks to obtain and maintain an improved balance between jobs and workers residing in San Jose. Approval of the proposed General Plan amendment would likely eliminate future industrial employment opportunities on the subject site, and could also constrain the continued operation or expansion of adjacent industrial operations in the vicinity, due to the proximity of the non-industrial uses. Losing job opportunities would be inconsistent with this policy as it does not foster economic development that helps generate employment opportunities for its residents and revenue to support City services.

Economic Development Policy No. 2 states, to enhance its economic development goals and increase employment opportunities for San Jose citizens, the City should:

- *Seek to attract businesses and industries which are particularly suited to the area.*
- *Protect the industrial lands designated exclusively for industrial uses.*
- *Attract a diverse mixture of businesses and industries that can provide jobs suitable for the City's unemployed and under-employed labor force.*

The proposed General Plan amendment is inconsistent with this policy. It would discourage existing industrial businesses from continuing operations or expanding existing operations that are particularly suited to the heavy industrial area, such as the adjacent sheet metal business. It would insert 2.66 acres of non-industrial uses in the middle of a large, purely industrial area, on the east side of Oakland Road instead of protecting the limited heavy industrial land resources.

Industrial Land Use Policy No. 11 states that *because of the importance in retaining viable industrial supplier/service lands and the inherent incompatibility between residential or non-industrial uses and industrial uses, new land uses that may restrict development of land reserved exclusively for industrial uses should not be allowed to locate adjacent to these areas of the City, and, in particular, sensitive receptors should not be located near primary industrial areas.* By placing non-industrial uses adjacent to industrial uses in a predominantly industrial area, the proposed General Plan amendment could result in future limitations being imposed on the industrial uses in the immediate vicinity, thereby potentially compromising the future viability of the industrial businesses. Industrial activity can require outdoor storage, generate heavy vehicular traffic, odors and noise, or require the use of chemicals. Such activities are likely to be of concern to nearby non-industrial uses especially religious assembly and schools with sensitive receptors (children and elderly people, in particular). The proximity of non-industrial uses could result in complaints about the industrial operations, which may in turn result in restrictions being placed on these businesses. Even when such complaints identify effects that are only nuisances, they must be resolved by the City. For these reasons, the proposed General Plan amendment is inconsistent with this policy.

Industrial Land Use Policy Nos. 1 and 14: Because of the incompatibilities of land uses between the industrial and non-industrial users as stated above, the existing industrial users could be burdened by providing costly mitigation measures. *Industrial Land Use Policy No. 1* states,

Industrial development should incorporate measures to minimize negative impacts on nearby land uses. This could further deter future businesses from locating in the area. Therefore this policy would prove to be a disincentive to existing and future businesses in the area if the proposed amendment is approved. *Industrial Land Use Policy No. 14 states: Non-industrial uses which would result in the imposition of additional operational, and/or mitigation requirements, or conditions on industrial users in a neighboring exclusively industrial area in order to achieve compatibility are discouraged.* The proposed amendment would facilitate development of non-industrial uses, which could result in the imposition of mitigation measures on existing and future industries surrounding the site because of sensitive users on the non-industrial sites and potential nuisances from hazardous materials use or other operational characteristics e.g., noise, dust, etc. on the industrial sites. The proposed amendment is not compatible with the Policy Nos. 1 and 14.

Industrial Land Use Policy No. 3 states, the City should monitor the absorption and availability of industrial land to ensure a balanced supply of available land for all sectors. The proposed amendment would facilitate conversion of an industrial land use to a non-industrial one, it would add to the cumulative loss of industrial land, and increase the potential for the adjacent industrially designated sites to seek conversion.

Industrial Land Use Policy No.15 states, exclusively industrial areas should be reserved for industrial uses to the extent possible. The proposed amendment, if approved, would be inconsistent with this policy by allowing non-industrial uses in an exclusively industrial area.

The *Mixed Industrial Overlay designation* states that the overlay may be appropriate in *areas with a mixture of primarily industrial with compatible commercial or public/quasi –public uses....Areas with this overlay designation contain or are surrounded by an existing mix of uses, so that additional non-industrial uses would not compromise the integrity of areas reserved exclusively for industrial uses.....The proximity of areas established exclusively for industrial uses should be considered in the application of this overlay to minimize any restrictions on the operations of tenants in the exclusively industrial areas. New uses within the Overlay areas should be considered secondary when land use compatibility issues occur between existing or planned users of hazardous materials and sensitive receptors.* A staff-initiated General Plan text amendment GP 05-T-03, also being considered by the Planning Commission on November 9 proposes to add language to the definition of the Mixed Industrial Overlay designation to discourage the addition of the Mixed Industrial Overlay designation on sites with the Heavy Industrial or Light Industrial land use designations.

Evaluation of Industrial Land Conversion

The subject proposal would change the General Plan land use designation to allow non-industrial uses, thus requiring review using the *Framework, as a Guideline, to Evaluate Proposed Conversions of Employment Lands to Other Uses (Framework)*. Attached to this report is an analysis of the proposal based on the criteria established in the Framework.

ENVIRONMENTAL REVIEW

A Draft Mitigated Negative Declaration was circulated on October 21, 2005 for public review and comments. The Mitigated Negative Declaration included mitigation to reduce any potential impacts to a less than significant level per the California Environmental Quality Act (CEQA). The Mitigated Negative Declaration concluded that the project would have a less than significant impact with mitigation measures in the following categories: Aesthetics, Air Quality, Cultural

Resources, Geology and Soils, Hazards and Hazardous Materials, Hydrology and Water Quality, Land Use and Planning, Transportation and Traffic.

As noted previously, if the proposed General Plan amendment is approved, any new use allowed by the Mixed Industrial Overlay designation will be subject to subsequent development applications and environmental review, including a detailed review of the relationship between the proposed new use and the hazardous material use at the surrounding industrial facilities.

CONCLUSION

Currently, all the properties surrounding the subject site are industrial. The Mixed Industrial Overlay designation is appropriate only in areas that already exhibit an existing mix of uses, so that the addition of non-industrial uses would not compromise the industrial integrity of the area.

Non-industrial uses developed under the Mixed Industrial Overlay on the existing Heavy Industrial site could result in restrictions on existing and future industrial uses within proximity, especially when sensitive receptors are involved at the site.

The proposed amendment would make it difficult for the existing surrounding industrial businesses to continue to operate and contribute to the economic wellbeing of the city because the proposed uses on the site, especially uses with sensitive receptors, such as schools, church, etc., would be incompatible with the existing industrial uses. Approval of the proposed amendment would contribute to the cumulative loss of Heavy Industrial designated land in the City.

The Mixed Industrial Overlay designation states that the overlay may be appropriate in areas with a mixture of primarily industrial with compatible commercial or public/quasi –public uses, so that additional non-industrial uses would not compromise the integrity of areas reserved exclusively for industrial uses. The proximity of areas established exclusively for industrial uses should be considered in the application of this overlay to minimize any restrictions on the operations of tenants in the exclusively industrial areas. New uses within the Overlay areas should be considered secondary when land use compatibility issues occur between existing or planned users of hazardous materials and sensitive receptors. Based on the above, the subject site is not an appropriate location for application of the Mixed Industrial Overlay.

PUBLIC OUTREACH

A community meeting letter was mailed out to the property owners and tenants within a 1000-foot radius of the subject site informing them about a community meeting held on October 27, 2005 at Orchard Elementary School on Fox Lane to discuss the proposed General Plan amendment. They also received a joint notice of public hearings to be held on the subject General Plan amendment before the Planning Commission on November 9, 2005 and City Council on December 6, 2005. The Planning Department web site contains information regarding the General Plan process, amendments, staff reports, and hearing schedules. This web site is available with the most current information regarding the status of the General Plan amendments.

This General Plan amendment is subject to the State of California Tribal Consultation Guidelines. For all General Plan amendments and Specific Plans initiated after February 2005, at least a 90-day consultation request period is required, as well as noticing of the scheduling of the Planning Commission Hearing and City Council hearing at least 45 days prior to the proposed adoption date of the General Plan amendment or Specific Plan. Please note that for the subject General Plan

amendment the 90-day consultation request period will not conclude until the end of November 2005 -- between the date of the Planning Commission hearing and the date of the City Council hearing. If any tribe requests consultation prior to expiration of the 90 days, either or both the Planning Commission and City Council hearings would have to be deferred until such time as the consultation process is completed.

The community meeting was attended by approximately ten people consisting of representatives of surrounding industrial businesses and the associates of the applicant, Bible Way Christian Center. Gerry DeYoung, representing the applicant, made a presentation about the applicant's plan for church uses of the existing building at 2080 and 2090 Oakland Road.

The representatives of the adjacent industrial businesses (2110, 2120, 2060 and 2070 Oakland Road) spoke of their concerns regarding the use of the subject site for the church and its related activities. Concerns included potential future liability for the owners of the adjacent industrial uses, safety of the users on the subject site (particularly children) given the presence of on-site hazardous materials, trucks driving in and out of the site, fork lift operations and a busy loading dock area, reduced property values to the adjacent owners, reduced ability to lease buildings resulting in increase in the inventory of vacant industrial buildings and loss of jobs and reduction in revenue to the City.

Andre Walewski, representing the owner of the adjacent properties at 2070 and 2060 Oakland Road, occupied by Mass Precision Sheetmetal, expressed concern that the proposal to add the Mixed Industrial Overlay designation would create one isolated parcel with non-industrial uses within the surrounding industrial area. He questioned the need for the Mixed Industrial Overlay, when there are many similar vacant buildings available in other areas of the city on sites already containing the Mixed Industrial Overlay land use designation. A representative from Union Bank of California, San Francisco, representing owners of 2110 and 2120 Oakland Road, echoed the concerns of Mr. Walewski regarding the proposed amendment.

Mass Precision Sheet Metal is an industrial business that occupies the two buildings on the north and south sides of the proposed site. According to its Chief Financial Officer, Tom Nickel, the business has been in operation at the site for the last 12 years and it operates 7 days a week, and 24 hours a day. Over the last one and half years the business has added 150 employees and is actively seeking to add 30 more to its current work force of 300 employees. The business operates three shifts with the largest crew working between 5:00 A.M. and 1:30 P.M. They are proposing to expand their operation to include a weekend shift, due to the continued increase in business. One of their buildings shares a common loading dock area with the building on the subject site. This has created a concern for their company regarding the possible conflict between the future church uses and their operations, including use of hazardous materials. Mr. Nickel stated that the lease for their buildings was due for renewal in 18 months and that if the proposed General Plan amendment is approved, allowing the future church use, his company would not renew their lease and would relocate their business and their 300 plus employees elsewhere, possibly outside San Jose.

Pastor Dace, representing the applicant, Bible Way Christian Center, gave an example of how the presence of a church next to their present location has had no conflicts. They have found sharing the parking lots workable. He explained that the proposed church at the subject site would operate between 11:00 a.m. to 1:00 p.m. on Sundays and the school between 7:00 P.M. and 9:00 P.M. on Tuesdays. They also have an office in operation at the site everyday. The church employs private security. Additionally, he stated that the church offers teenage programs, counseling, a disaster relief aid station, weddings and funeral services. The wedding and funeral services are offered

mostly on Saturdays and not everyday. Al Davis, a realtor representing the church, stated that they have considered numerous other sites and buildings and found none suitable for their needs or their financial ability. A vacant building across Oakland Road was available for a substantially higher lease amount.

Brian Mullen of Union Bank of California representing 2110 and 2120 Oakland Road stated the City would lose a re-emerging company if the General Plan amendment were approved. Property owners on either side of the subject site could lose tenants in this economic downturn. He was concerned about how long it could take to lease the space after the current lease expires in March 2007. He stated that there are 60 million square feet of empty buildings with no prospect of new tenants. He offered to show the applicants an alternative site for their church uses.

Appendix A

Evaluation of Industrial Land Conversion

The site is located in the North San Jose subarea 5. As a conversion from an exclusively industrial land use designation to a land use designation that allows non-industrial uses, the proposal must be evaluated using the *Framework, as a Guideline, to Evaluate Proposed Conversions of Employment Lands to Other Uses (Framework)*. The *Framework* classifies employment lands into three different categories: 1) subareas to promote or facilitate conversion to housing, retail, mixed use, or other Household-Serving industries; 2) subareas to consider for conversion to housing, retail, mixed use, or other Household-serving industries in certain circumstances; and 3) subareas to preserve for Driving and Business Support Industries. The subject site is in North San Jose 5 subarea that is listed in the second category. The *Framework* identifies key criteria that need to be evaluated when considering conversion of employment lands to other uses. The following is an analysis of the proposed General Plan amendment based on the established criteria:

Discussion of *Framework* criteria for evaluation of proposed conversions to residential or mixed use, retail, or other Household-Serving Industries.

A. Economic contribution of the Subarea: *What is the economic contribution of the subarea to the San José and Silicon Valley economy and job base? How would this economic contribution be enhanced or reduced by the proposed conversion?*

The amendment site is located in the North San José 5 subarea, generally bounded by Highway 101 on the south and Highway 880 on the west. This area is the largest employment subarea in San José and is particularly important to San José's economy because it contains both *driving industries* that fuel the economy and *support industries* that help sustain it. This unique mix of business types provides opportunity for growth in industry and employment for all levels.

In 2003, the area supported approximately 25,900 jobs. Forty three percent of these jobs were in driving industries and 57 percent in support industries. This portion of North San José includes jobs related to electronic component manufacturing (37%), transportation/distribution (13.5%), industrial suppliers (21%) and business services (12%).

This subarea is adjacent to a larger contiguous area of employment lands with additional subareas located to its west, north, and south. The proposed General Plan amendment would further erode the integrity of this subarea and exert additional pressure to convert industrial land to other uses.

The addition of the Mixed Industrial Overlay would allow a range of non-industrial uses, thereby limiting the potential for new industrial use of the existing buildings. In addition, as described previously, the approval of this amendment could trigger the loss of the adjacent heavy industrial business and elimination of more than 300 jobs. Consequently, the economic contribution of this subarea could be reduced by the proposed conversion.

B. Consistency with City Policies and Strategies: *How do the proposed conversion and specific proposed use(s) and intensities advance the City's policies and strategies as contained in the General Plan, Specific Plans, and other strategic documents?*

The proposed General Plan amendment does not support General Plan goals and policies as analyzed previously in this staff report. The proposed General Plan amendment to add the Mixed

Industrial Overlay on this site is not consistent with the General Plan Economic Development Major Strategy, Goals and Policies, and the Industrial Land Use Goals and Policies.

C. Proximity to existing neighborhoods and areas in transition: *How would the new residential/mixed use knit with adjacent existing or planned residential and/or retail uses, and/or fill-in gaps in areas already partially converted or transitioning to residential use? Does the proposed conversion eliminate small islands or peninsulas of industrially designated/zoned land that would be suitable for conversion to residential to make them consistent with surrounding uses?*

There are no other retail or residential uses adjacent to the subject property. The proposal is inconsistent with the existing heavy industrial uses in the vicinity.

D. Proximity to incompatible employment uses (e.g., manufacturing, recycling, etc.): *Where are the nearest incompatible industrial areas, which might generate impacts due to hours of operation, deliveries, noise, odors, hazardous materials, etc.? How might the new residential use put pressure on the existing industrial uses to modify their operations?*

Incompatible industrial areas nearest to the subject site are to the south and north abutting the subject property. The adjacent industrial tenants' hours of operation are 24 hours a day, seven days a week in three shifts. Trucks drive in and out of the site frequently and hazardous materials are delivered, stored and used on the site and the loading dock area, which is shared by the subject building. Moving industrial equipment, noise, dust, etc. would be incompatible with the uses that would be allowed on the subject site if the Mixed Industrial Overlay were approved.

There is no proposed residential use at this time, but the proposed non-industrial uses could cause the adjacent industrial business with 300 employees to relocate and possibly leave San Jose.

E. Potential inducement of additional conversions to residential use? *How might the proposed residential use induce or pressure adjacent or nearby properties to convert to residential use?*

There are no residential uses proposed. However, the proposed amendment for non-industrial uses would further erode the integrity of this subarea. There is a strong likelihood that the proposed change would be a catalyst to induce future conversions of surrounding industrial properties to non-industrial uses. Placing a new non-industrial project like a church adjacent to the existing industrial uses would negatively affect the viability of the existing industrial operations. Due to the new limitations that would be imposed upon the future expansion opportunities of the surrounding industrial users, the businesses could be pressured to convert to non-industrial uses.

F. Proximity to transit service: *Is the proposed housing site within 3000 feet of a planned BART Station or 2000 feet of an existing, funded or planned Light Rail Station?*

This criteria is not applicable to the proposed General Plan amendment.

G. Proximity to compatible employment uses (e.g., office/R&D): *Where are the nearest existing or planned employment areas with compatible land use characteristics, thereby creating potential alternate commute (walk/bike to work) opportunities?*

Employment areas surround the subject site, including the subject site if it is leased out to industrial use per its current Heavy Industrial zoning.

H. Availability of neighborhood services, and residential and commercial mixed use drivers:

Where are the nearest existing and/or planned neighborhood serving retail, parks, libraries, schools, open space/trails, etc.? How would the proposed conversion potentially enhance city services (e.g., by creating or improving neighborhood parks)? How would the proposed residential conversion potentially strengthen neighborhood and general commercial uses in the area by adding resident population? Does the proposed conversion involve a mixed residential and commercial development on the site?

This is not a residential project therefore, this criteria does not apply.

I. Public Benefit: *Does the proposed conversion offer or facilitate a unique and significant public benefit (e.g., the delivery of significant contribution toward public facilities, public improvements, infrastructure, or affordable housing beyond what would be required to serve the proposed development associated with the conversion)? Would the conversion result in improvements to a blighted area or contribute to the variety of housing types, including rental or ownership, in areas that have predominantly one or the other? Are there any other means to obtain this extraordinary public benefit without the conversion?*

The proposal does not offer any unique and significant public benefit. It does not result in improvements to a blighted area or contribute to the variety of housing types.

J. Adequacy of Fire/Police service levels: *What are the anticipated service levels or other public safety performance measures to serve the proposed housing area?*

This is not a proposed residential project. However, the criterion will be evaluated for non-industrial uses because the occupants of that use would still need the same services mentioned in the criterion.

This is a proposed Mixed Industrial Overlay, which could eventually result in non-industrial uses like assembly use to be located on the site. This future assembly use is anticipated to create demand for an incremental increase in the need for police and fire protection services in the project area. However, it is not anticipated that any new or expanded police or fire department facilities would be required to serve future residential development at the proposed amendment site. The closest fire station is located approximately 2.5 miles from the site.

K. Utilization of bicycle and pedestrian facilities, and promote pedestrian access: *Where are the nearest existing and planned bicycle and pedestrian facilities? How does the proposed residential/ mixed use development support nearby jobs and commercial lands by promoting pedestrian access and minimizing vehicle trips?*

The current surroundings do not provide safe walking routes for the occupants of the new non-industrial use or a pedestrian-friendly atmosphere. Within the vicinity of the General Plan amendment site, there are bike lanes along Oakland Road and Brokaw Road/Murphy Avenue. However, some of the streets in the vicinity lack sidewalks. Sidewalks are located along the west side of Oakland Road. The east side of Oakland Road lacks sidewalks. New sidewalks are planned with the completion of the Oakland Road Widening Project (PP03-06-209) to widen Oakland Road between Montague Expressway and US 101 to its ultimate right-of-way width of 115 to 130 feet consistent with the General Plan Land Use/Transportation Diagram designation of Major Arterial. With these improvements, Oakland Road would become six lanes, which would remain

an unpleasant pedestrian route. The widening of Oakland Road is planned to be constructed in phases and as funding become available. The first phase of construction is planned to be completed by Spring 2006 between Commercial Street and Brokaw Road. However, the schedule for subsequent phases is not yet determined.

L. Potential environmental impacts and mitigation measures, including adequacy of other public infrastructure:

Environmental impacts of the proposed amendment are discussed in detail in the section of this staff report titled “Environmental Review.”

M. Potential fiscal impacts: *What is the potential fiscal impact on City revenue and service costs?*

This criterion is intended to identify the potential fiscal impact on City revenue and services costs from the proposed conversion. The proposed change in land use from Heavy Industrial to Heavy Industrial with Mixed Industrial Overlay would allow non-industrial uses such as primary or secondary schools, hotels and motels, night clubs, churches, free-standing day care centers, big box retailers, large gymnasiums, sports or arts instruction facilities, and hospitals. Many of them could involve sensitive receptors on site. The adjoining industrial business operates 24 hours a day and 7 days a week. This is a successful, growing business currently intending to expand their work force with additional jobs. The owners of the business have indicated they would move if the subject site were occupied by church uses. Loss of these businesses and its employees would mean the loss of more than 300 jobs and reduced revenues to the City.

Moreover the type of uses allowed under the proposed General Plan amendment are *revenue-poor* to the city while placing a higher demand on the city services like the police, fire, etc.

The City of San José currently has a higher number of employed residents than jobs and is projected to continue to have a higher number of employed residents than jobs in the year 2005. The potential loss of current jobs would contribute to the jobs/housing imbalance within the City, in addition to reducing revenue and increasing service costs.

GP05-04-03

